

Agency Mission: To assure the citizens of Kansas safe and competent practice by nurses and mental health technicians.

**Kansas State Board of Nursing
Landon State Office Building
Board of Nursing Library, Room 1051
Investigative Committee Agenda
September 9, 2019**

Committee Members: Jo Klaassen, RN, MN, JD, Chair
Rebecca Sander, MSN, RN, V. Chair
Julianna Rieschick, RN, MSN, NEA-BC

Staff: Carol Moreland, MSN, RN, Executive Administrator
Jill Simons, Executive Assistant
Amanda Huguenin, Administrative Specialist

I. Call to order general session at **9:00 a.m.** on **Monday, September 9, 2019** in LSOB, Room 1051, Library

- A. Review of onsite packets
- B. Additions and revisions to agenda
- C. Minutes
 - 1. June 10 & 11, 2019 minutes
- D. Complaints/concerns
- E. Unfinished Business
 - 1. Update on IPP contract
- F. New Business
 - 1. Submitting Complaint forms electronically
 - 2. Need for sworn complaints – K.S.A. 65-1120 (b)
 - 3. Update on change in retention of Investigative Files
 - 4. Possibility of electronic format of Investigative Committee notebook
 - 5. Process concerns
 - a. Appropriate application of negligence vs. gross negligence
 - b. Processing applications when a pending investigation

II. Closure for quasi-judicial deliberations on investigations until concluded, or if necessary, recessed until 8:30 a.m., September 10, 2019, for further deliberation and action.

III. Reconvene meeting for action

Please Note: Additional items, which have come to the attention of the Board or Committee, will be handled as time permits. Agenda is subject to change based upon items to come before the Board. Handouts or copies of materials brought to the board or committees for discussion by committee members or visitors must be submitted to staff 30 calendar days prior to start of the meeting. Any items received after the 30th calendar day may be addressed at the meeting at the discretion of the President of the Board or chairperson of the committee.

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KANSAS STATE BOARD OF NURSING
Landon State Office Building
900 S.W. Jackson, Suite 1051 S.
Topeka, Kansas 66612-1230



COMPLAINT REPORT FORM
(please attach additional pages as needed)

PLEASE NOTE: Your complaint is very important to us. Type or print legibly.
NO FAXES OR COPIES ACCEPTED MUST RETURN ORIGINAL FORM.

1. **Reporting Party Information:**

Name: _____
Last First M.I. Position

Name of Agency: _____

Address: _____
Street

City State Zip Code County

Telephone Number: _____

2. **Licensee Information:**

Name _____
Last First M.I.

Other Names Used: _____

Kansas Nursing License No.: _____

Address: _____
Street

City State Zip Code County

Home telephone number: _____ Social Security Number: _____

Employment dates of licensee: _____
MM/DD/YYYY to MM/DD/YYYY

3. The date of the alleged incident(s) is on or about: _____

4. The facts, on which this report is based, are as follows:
(If this report is concerning a patient, please provide a patient identification number.)

5. Description of sanction, corrective or disciplinary action: _____

6. Facility Investigation:

Investigation Report Completed: Yes ___ No ___
Investigation Report Attached: Yes ___ No ___

Witnesses names and address: _____

7. Documentation in facility file (Please list): _____

Signature of Reporting Person

Pursuant to law the Kansas State Board of Nursing may exercise discretion in deciding what to investigate, absent a sworn complaint.

OPTIONAL:

Complete the notary portion if you desire to make the investigation of this matter a mandatory duty of the Board.

STATE OF KANSAS]
] SS.
COUNTY OF _____]

Being first duly sworn states that he/she has read the forgoing report consisting of _____ pages and knows the contents thereof; and that the same is true and correct to the best of his/her knowledge, information and belief.

Signature of Reporting Person

Subscribed and sworn to before me this _____ day of _____, 201__

My Commission Expires: _____

Notary Public

65-1120. Grounds for disciplinary actions; proceedings; witnesses; costs; professional incompetency defined; criminal justice record information.

- (a) Grounds for disciplinary actions. The board may deny, revoke, limit or suspend any license or authorization to practice nursing as a registered professional nurse, as a licensed practical nurse, as an advanced practice registered nurse or as a registered nurse anesthetist that is issued by the board or applied for under this act or may publicly or privately censure a licensee or holder of a temporary permit or authorization, if the applicant, licensee or holder of a temporary permit or authorization is found after hearing:
- (1) To be guilty of fraud or deceit in practicing nursing or in procuring or attempting to procure a license to practice nursing;
 - (2) to have been guilty of a felony or to have been guilty of a misdemeanor involving an illegal drug offense unless the applicant or licensee establishes sufficient rehabilitation to warrant the public trust, except that notwithstanding K.S.A. 74-120, and amendments thereto, no license or authorization to practice nursing as a licensed professional nurse, as a licensed practical nurse, as an advanced practice registered nurse or registered nurse anesthetist shall be granted to a person with a felony conviction for a crime against persons as specified in article 34 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54 chapter 21 of the Kansas Statutes annotated, or K.S.A. 2012 Supp. 21-6104, 21-6325, 21-6326 or 21-6418, and amendments thereto;
 - (3) to have committed an act of professional incompetency as defined in subsection (e);
 - (4) to be unable to practice with skill and safety due to current abuse of drugs or alcohol;
 - (5) to be a person who has been adjudged in need of a guardian or conservator, or both, under the act for obtaining a guardian or conservator, or both, and who has not been restored to capacity under that act;
 - (6) to be guilty of unprofessional conduct as defined by rules and regulations of the board;
 - (7) to have willfully or repeatedly violated the provisions of the Kansas nurse practice act or any rules and regulations adopted pursuant to that act, including K.S.A. 65-1114 and 65-1122 and amendments thereto;
 - (8) to have a license to practice nursing as a registered nurse or as a practical nurse denied, revoked, limited or suspended, or to be publicly or privately censured, by a licensing authority of another state, agency of the United States government, territory of the United States or country or to have other disciplinary action taken against the applicant or licensee by a licensing authority of another state, agency of the United States government, territory of the United States or country. A certified copy of the record or order of public or private censure, denial, suspension, limitation, revocation or other disciplinary action of the licensing authority of another state, agency of the United States government, territory of the United States or country shall constitute prima facie evidence of such a fact for purposes of this paragraph (8); or
 - (9) to have assisted suicide in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2012 Supp. 21-5407, and amendments thereto, as established by any of the following:
 - (A) A copy of the record of criminal conviction or plea of guilty for a felony in violation of K.S.A. 21-3406, prior to its repeal or K.S.A. 2012 Supp. 21-5407, and amendments thereto.
 - (B) A copy of the record of a judgment of contempt of court for violating an injunction issued under K.S.A. 2012 Supp. 60-4404, and amendments thereto.
 - (C) A copy of the record of a judgment assessing damages under K.S.A. 2012 Supp. 60-4405, and amendments thereto.
- (b) Proceedings. Upon filing of a sworn complaint with the board charging a person with having been guilty of any of the unlawful practices specified in subsection (a), two or more members of the board shall investigate the charges, or the board may designate and authorize an employee or employees of the board to conduct such investigation. After investigation, the board may institute charges. If an investigation, in the opinion of the board, reveals reasonable grounds for believing the applicant or licensee is guilty of the charges, the board shall fix a time and place for proceedings, which shall be conducted in accordance with the provisions of the Kansas administrative procedure act.
- (c) Witnesses. No person shall be excused from testifying in any proceedings before the board under this act or in any civil proceedings under this act before a court of competent jurisdiction on the ground that such testimony may incriminate the person testifying, but such testimony shall not be used against the person for the prosecution of any crime under the laws of this state except the crime of perjury as defined in K.S.A. 2012 Supp. 21-5903, and amendments thereto.
- (d) Costs. If final agency action of the board in a proceeding under this section is adverse to the applicant or licensee, the costs of the board's proceedings shall be charged to the applicant or licensee as in ordinary civil actions in the district court, but if the board is the unsuccessful party, the costs shall be paid by the board. Witness fees and costs may be taxed by the board according to the statutes relating to procedure in the district court. All costs accrued by the board, when it is the successful party, and which the attorney general certifies

cannot be collected from the applicant or licensee shall be paid from the board of nursing fee fund. All moneys collected following board proceedings shall be credited in full to the board of nursing fee fund. All moneys collected following board proceedings shall be credited in full to the board of nursing fee fund.

- (e) Professional incompetency defined. As used in this section, "professional incompetency" means:
- (1) One or more instances involving failure to adhere to the applicable standard of care to a degree which constitutes gross negligence, as determined by the board;
 - (2) repeated instances involving failure to adhere to the applicable standard of care to a degree which constitutes ordinary negligence, as determined by the board; or
 - (3) a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice nursing.
- (f) Criminal justice information. The board upon request shall receive from the Kansas bureau of investigation such criminal history record information relating to arrests and criminal convictions as necessary for the purpose of determining initial and continuing qualifications of licensees of and applicants for licensure by the board.

History: (L. 1949, ch. 331, § 9; L. 1963, ch. 314, § 6; L. 1972, ch. 231, § 10; L. 1975, ch. 316, § 7; L. 1978, ch. 240, § 6; L. 1981, ch. 245, § 1; L. 1983, ch. 206, § 10; L. 1985, ch. 88, § 6; L. 1986 ch. 233, § 4; L. 1990, ch. 221, § 5; L. 1993, ch. 194, § 1, L. 1995, ch. 97, § 2, L. 1997, ch. 158, § 4; L. 1998, ch. 142 § 8; L. 2011, ch. 114 § 42; Jan. 1, 2012.)